

IC 20-29

ARTICLE 29. COLLECTIVE BARGAINING FOR TEACHERS

IC 20-29-1

Chapter 1. Findings and Intent

IC 20-29-1-1

Intent

Sec. 1. The general assembly declares the following:

(1) The citizens of Indiana have a fundamental interest in the development of harmonious and cooperative relationships between school corporations and their certificated employees.

(2) Recognition by school employers of the right of school employees to organize and acceptance of the principle and procedure of collective bargaining between school employers and school employee organizations can alleviate various forms of strife and unrest.

(3) The state has a basic obligation to protect the public by attempting to prevent any material interference with the normal public school educational process.

(4) The relationship between school corporation employers and certificated school employees is not comparable to the relationship between private employers and employees for the following reasons:

(A) A public school corporation is not operated for profit but to ensure the citizens of Indiana rights guaranteed them by the Constitution of the State of Indiana.

(B) The obligation to educate children and the methods by which the education is effected will change rapidly with:

- (i) increasing technology;
- (ii) the needs of an advancing civilization; and
- (iii) requirements for substantial educational innovation.

(C) The general assembly has delegated the discretion to carry out this changing and innovative educational function to the governing bodies of school corporations, composed of citizens elected or appointed under applicable law, a delegation that these bodies may not and should not bargain away.

(D) Public school corporations have different obligations concerning certificated school employees under constitutional and statutory requirements than private employers have to their employees.

As added by P.L.1-2005, SEC.13.

IC 20-29-2
Chapter 2. Definitions

IC 20-29-2-1

Application of chapter

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-2

"Bargain collectively"

Sec. 2. "Bargain collectively" means the performance of the mutual obligation of the school employer and the exclusive representative to:

- (1) meet at reasonable times to negotiate in good faith concerning the items enumerated in IC 20-29-6-4; and
- (2) execute a written contract incorporating any agreement relating to the matters described in subdivision (1).

As added by P.L.1-2005, SEC.13.

IC 20-29-2-3

"Board"

Sec. 3. "Board" refers to the Indiana education employment relations board established by IC 20-29-3-1.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-4

"Certificated employee"

Sec. 4. "Certificated employee" means a person:

- (1) whose contract with the school corporation requires that the person hold a license or permit from the professional standards board under IC 20-28; or
- (2) who is employed as a teacher by a charter school established under IC 20-24.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-5

"Confidential employee"

Sec. 5. "Confidential employee" means a school employee whose:

- (1) unrestricted access to confidential personnel files; or
- (2) functional responsibilities or knowledge in connection with the issues involved in dealings between the school corporation and its employees; makes the school employee's membership in a school employee organization incompatible with the school employee's official duties.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-6
"Deficit financing"

Sec. 6. "Deficit financing" for a budget year means expenditures exceeding the money legally available to the employer.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-7
"Discuss"

Sec. 7. "Discuss" means the performance of the mutual obligation of the school corporation through its superintendent and the exclusive representative to meet at reasonable times to:

- (1) discuss;
 - (2) provide meaningful input; or
 - (3) exchange points of view;
- with respect to items enumerated in IC 20-29-6-7.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-8
"Employees performing security work"

Sec. 8. "Employees performing security work" means a school employee:

- (1) whose primary responsibility is the protection of personal and real property owned or leased by the school corporation; or
- (2) who performs police or quasi-police powers.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-9
"Exclusive representative"

Sec. 9. "Exclusive representative" means the:

- (1) school employee organization that has been:
 - (A) certified for purposes of this article by the board; or
 - (B) recognized by a school employer as the exclusive representative of the employees in an appropriate unit; under IC 20-29-5-1 through IC 20-29-5-5; or
- (2) person or persons authorized to act on behalf of a representative described in subdivision (1).

As added by P.L.1-2005, SEC.13.

IC 20-29-2-10
"Governing body"

Sec. 10. "Governing body" means:

- (1) a township trustee and the township board of a school township;
- (2) a county board of education;
- (3) a board of school commissioners;

- (4) a metropolitan board of education;
- (5) a board of trustees;
- (6) any other board or commission charged by law with the responsibility of administering the affairs of a school corporation; or
- (7) the body that administers a charter school established under IC 20-24.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-11

"Noncertificated employee"

Sec. 11. "Noncertificated employee" means a school employee whose employment is not dependent on the holding of a license or permit under IC 20-28.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-12

"School corporation"

Sec. 12. "School corporation" means a local public school corporation established under Indiana law. The term includes any:

- (1) school city;
- (2) school town;
- (3) school township;
- (4) consolidated school corporation;
- (5) metropolitan school district;
- (6) township school corporation;
- (7) county school corporation;
- (8) united school corporation;
- (9) community school corporation; and
- (10) public vocational school or school for children with disabilities established or maintained by two (2) or more school corporations.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-13

"School employee"

Sec. 13. "School employee" means a full-time certificated person in the employment of the school employer. A school employee is considered full time even though the employee does not work during school vacation periods and accordingly works less than a full year.

The term does not include:

- (1) supervisors;
- (2) confidential employees;
- (3) employees performing security work; and
- (4) noncertificated employees.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-14
"School employee organization"

Sec. 14. "School employee organization" means an organization that:

- (1) has school employees as members; and
 - (2) as one (1) of its primary purposes, represents school employees in dealing with their school employer.
- The term includes a person or persons authorized to act on behalf of the organization.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-15
"School employer"

Sec. 15. "School employer" means:

- (1) the governing body of each:
 - (A) school corporation; or
 - (B) charter school established under IC 20-24; and
- (2) a person or persons authorized to act for the governing body of the school employer in dealing with its employees.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-16
"Strike"

Sec. 16. "Strike" means:

- (1) concerted failure to report for duty;
 - (2) willful absence from one's position;
 - (3) stoppage of work; or
 - (4) abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment;
- without the lawful approval of the school employer or in any concerted manner interfering with the operation of the school employer for any purpose.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-17
"Submission date"

Sec. 17. "Submission date" means the first date for the legal notice and publication of the budget of a school corporation under IC 6-1.1-17-3.

As added by P.L.1-2005, SEC.13.

IC 20-29-2-18
"Superintendent"

Sec. 18. "Superintendent" means:

- (1) the chief administrative officer of a:
 - (A) school corporation; or
 - (B) charter school established under IC 20-24; or
- (2) a person or persons designated by the officer or by the

governing body to act in the officer's behalf in dealing with school employees.
As added by P.L.1-2005, SEC.13.

IC 20-29-2-19

"Supervisor"

Sec. 19. "Supervisor" means an individual who has:
(1) authority, acting for the school corporation, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline school employees;
(2) responsibility to direct school employees and adjust their grievances; or
(3) responsibility to effectively recommend the action described in subdivisions (1) through (2);
that is not of a merely routine or clerical nature but requires the use of independent judgment. The term includes superintendents, assistant superintendents, business managers and supervisors, directors with school corporationwide responsibilities, principals and vice principals, and department heads who have responsibility for evaluating teachers.
As added by P.L.1-2005, SEC.13.

IC 20-29-3

Chapter 3. Indiana Education Employment Relations Board

IC 20-29-3-1

Establishment of board

Sec. 1. The Indiana education employment relations board is established.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-2

Members

Sec. 2. The board consists of three (3) members appointed by the governor to serve at the governor's pleasure.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-3

Chairperson

Sec. 3. The governor shall designate one (1) member of the board to serve as chairperson.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-4

Political affiliation of board members

Sec. 4. Not more than two (2) members of the board may be members of the same political party.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-5
Terms and vacancies

Sec. 5. Each member of the board is appointed for a term of four (4) years. A member appointed to fill a vacancy is appointed for the unexpired term of the member whom the appointed member is to succeed.

As added by P.L.1-2005, SEC.13.

IC 20-29-3-6
Qualifications

Sec. 6. Members may not:

(1) hold:

(A) another public office; or

(B) employment by the state, a public agency, or a public employer;

(2) be an officer or employee of a school employee organization or any affiliate of an organization; or

(3) represent a:

(A) school employer; or

(B) school employee organization, or an organization's affiliates.

As added by P.L.1-2005, SEC.13.

IC 20-29-3-7
Member on university teaching staff

Sec. 7. Section 6 of this chapter does not apply to an individual on the teaching staff of a university who is knowledgeable in public administration or labor law if the individual is not actively engaged, other than as a member, with any labor or employee organization. This section shall be construed liberally to effectuate the intent of the general assembly.

As added by P.L.1-2005, SEC.13.

IC 20-29-3-8
Chairperson's duties

Sec. 8. The chairperson of the board shall give full time to the chairperson's duties and may not engage in any other business, vocation, or employment.

As added by P.L.1-2005, SEC.13.

IC 20-29-3-9
Compensation

Sec. 9. The members of the board (other than the chairperson) receive as compensation payment equal to that of the chairperson, computed on a daily rate and paid for every day actually spent serving on the board.

As added by P.L.1-2005, SEC.13.

IC 20-29-3-10

Quorum

Sec. 10. Two (2) members of the board constitute a quorum.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-11

Powers

Sec. 11. The board has the following powers:

- (1) To adopt an official seal and prescribe the purposes for which the seal may be used.
- (2) To hold hearings and make inquiries as the board considers necessary to carry out properly the board's functions and powers.
- (3) To establish a principal office in Indianapolis.
- (4) To meet and exercise the board's powers at any other place in Indiana.
- (5) To conduct in any part of Indiana a proceeding, a hearing, an investigation, an inquiry, or an election necessary to the performance of the board's functions. For this purpose, the board may designate one (1) member, or an agent or agents, as hearing examiners. The board may use voluntary and uncompensated services as needed.
- (6) To appoint staff and attorneys as the board finds necessary for the proper performance of its duties. The attorneys appointed under this section may, at the direction of the board, appear for and represent the board in court.
- (7) To pay the reasonable and necessary traveling and other expenses of an employee, a member, or an agent of the board.
- (8) To subpoena witnesses and issue subpoenas requiring the production of books, papers, records, and documents that may be needed as evidence in any matter under inquiry, and to administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to a person, the circuit or superior court of the county in which the investigations or the public hearings are taking place, upon application by the board, shall issue an order requiring the person to:
 - (A) appear before the board; and
 - (B) produce evidence about the matter under investigation.

A failure to obey the order may be punished by the court as a contempt. A subpoena, notice of hearing, or other process of the board issued under this chapter shall be served in the manner prescribed by the Indiana Rules of Trial Procedure.

- (9) To adopt, amend, or rescind rules the board considers necessary and administratively feasible to carry out this chapter under IC 4-22-2.

(10) To request from any public agency the assistance, services, and data that will enable the board properly to carry out the board's functions and powers.
(11) To publish and report in full an opinion in every case decided by the board.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-12 Functions of board staff

Sec. 12. The board shall organize the board's staff to provide for the functions of:
(1) unit determination;
(2) unfair labor practice processing;
(3) conciliation and mediation;
(4) factfinding; and
(5) research.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-13 Conciliation; mediation; factfinding

Sec. 13. In connection with conciliation and mediation or factfinding, the board may:
(1) use full-time employees; or
(2) appoint employees for specific cases from a panel the board establishes.
As added by P.L.1-2005, SEC.13.

IC 20-29-3-14 Research division

Sec. 14. The board's research division must be organized to provide:
(1) statistical data on the resources of each school corporation;
(2) the substance of any agreements reached by each school corporation; and
(3) other relevant data.
As added by P.L.1-2005, SEC.13.

IC 20-29-4

Chapter 4. Rights and Responsibilities of School Employees and Employers

IC 20-29-4-1

Rights of school employees

Sec. 1. School employees may:

- (1) form, join, or assist school employee organizations;
 - (2) participate in collective bargaining with school employers through representatives of their own choosing; and
 - (3) engage in other activities, individually or in concert; to establish, maintain, or improve salaries, wages, hours, salary and wage related fringe benefits, and other matters set forth in IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.
- As added by P.L.1-2005, SEC.13.*

IC 20-29-4-2

School employee not required to join or financially support school employee organization

Sec. 2. (a) A school employee may not be required to join or financially support through the payment of:

- (1) fair share fees;
- (2) representation fees;
- (3) professional fees; or
- (4) other fees;

a school employee organization.

(b) A rule, regulation, or contract provision requiring financial support from a school employee to a school employee organization is void.

As added by P.L.1-2005, SEC.13.

IC 20-29-4-3

Responsibilities of school employers

Sec. 3. School employers have the responsibility and authority to manage and direct on behalf of the public the operations and activities of the school corporation to the full extent authorized by law, including but not limited to the following:

- (1) Direct the work of the school employer's employees.
- (2) Establish policy through procedures established in IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.
- (3) Hire, promote, demote, transfer, assign, and retain employees through procedures established in IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.
- (4) Suspend or discharge employees in accordance with applicable law through procedures established in IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.
- (5) Maintain the efficiency of school operations.
- (6) Relieve employees from duties because of lack of work or other legitimate reason through procedures established in IC 20-29-6-4, IC 20-29-6-5, and IC 20-29-6-7.

(7) Take actions necessary to carry out the mission of the public schools as provided by law.
As added by P.L.1-2005, SEC.13.

IC 20-29-5

Chapter 5. Units and Exclusive Representatives

IC 20-29-5-1

Exclusive representatives; selection of unit

Sec. 1. (a) The exclusive representative shall serve for school employees within certain groups referred to in this chapter as units or bargaining units. A bargaining unit may not contain both certificated and noncertificated employees. Subject to this limitation, the units for which an exclusive representative serves are determined in accordance with subsections (b) through (d).

(b) The parties may agree on the appropriate unit. For this purpose, the parties consist of the school employer and a school employee organization representing at least twenty percent (20%) of the school employees in a proposed unit.

(c) If the parties do not reach an agreement on the appropriate unit, or if a school employee in the proposed unit files a complaint about the unit with the board, the board shall determine the proper unit after a hearing. The board's decision must be based on but not limited to the following considerations:

- (1) Efficient administration of school operations.
- (2) The existence of a community of interest among school employees.
- (3) The effects on the school corporation and school employees of fragmentation of units.
- (4) Recommendations of the parties involved.

(d) In making a determination under subsection (c), the board shall give notice to all interested parties in accordance with the rules of the board. In giving notice under this subsection, the board is not required to follow IC 4-21.5.

As added by P.L.1-2005, SEC.13.

IC 20-29-5-2

Recognition of school employer organization as exclusive representative by school employer

Sec. 2. (a) A school employer may recognize as the exclusive representative of the school employer's employees within an appropriate unit a school employee organization that presents to the employer evidence of the school employee organization's representation of a majority of the school employees within the unit, unless:

- (1) another school employee organization representing twenty percent (20%) of the school employees within the unit files written objections to the recognition; or

(2) a school employee files a complaint to the composition of the unit with the school employer or the board within the notice period set forth in this section.

(b) Before recognizing an exclusive representative under this section, the school employer shall post a written public notice of the school employer's intention to recognize the school employee organization as exclusive representative of the school employees within the unit. The notice must be posted, for thirty (30) calendar days immediately preceding recognition, in each of the buildings where the school employees in any unit principally work.

As added by P.L.1-2005, SEC.13.

IC 20-29-5-3

Determination of exclusive representative other than exclusive school employee organization

Sec. 3. (a) If an exclusive school employee organization is not determined under section 2 of this chapter, the determination of whether a school employee organization shall be the exclusive representative shall be determined under this section.

(b) A school employee organization may file a petition asserting that:

(1) twenty percent (20%) of the employees in an appropriate unit wish to be represented for collective bargaining by the school employee organization as exclusive representative; or

(2) the designated exclusive representative is no longer the representative of the majority of school employees in the unit.

(c) The school employer may file a petition asserting: (1) that one (1) or more school employee organizations have presented to the school employer a claim to be recognized as the exclusive representative in an appropriate unit; or (2) that the school employer has good faith doubt that the previously certified school employee organization represents a majority of employees in the bargaining unit.

(d) Twenty percent (20%) of the school employees in a unit may file a petition asserting that the designated exclusive representative is no longer the representative of the majority of school employees in the unit.

(e) The board shall investigate a petition filed under subsection (b), (c), or (d). If the board has reasonable cause to believe that a question exists as to whether the designated exclusive representative or any school employee organization represents a majority of the school employees in a unit, the board shall provide for an appropriate hearing within thirty (30) days. In holding a hearing, the board is not required to comply with IC 4-21.5.

(f) If the board finds, based on the record of a hearing held under subsection (e), that a question of

representation exists, the board shall direct an election by secret ballot in a unit the board determines to be appropriate.

(g) Certification as the exclusive representative may be granted only to a school employee organization that has been selected in a secret ballot election under subsection (f), by a majority of all the employees in an appropriate unit as their representative.

(h) An election described in subsection (f) may not be held in a bargaining unit if a valid election has been held in the preceding twenty-four (24) month period.

As added by P.L.1-2005, SEC.13. Amended by P.L.1-2006, SEC.333.

IC 20-29-5-4 Elections

Sec. 4. In any election under this chapter, the board shall:

- (1) determine who is eligible to vote in the election; and
- (2) establish rules governing the election.

As added by P.L.1-2005, SEC.13.

IC 20-29-5-5 Ballots

Sec. 5. The ballot in an election under this chapter must contain the following:

- (1) The name of the petitioning school employee organization.
- (2) The names of any other school employee organization showing written evidence satisfactory to the board of at least twenty percent (20%) representation of the school employees within the unit.
- (3) A provision for choosing "No representation by a school employee organization."

As added by P.L.1-2005, SEC.13.

IC 20-29-5-6 Dues deductions

Sec. 6. (a) The school employer shall, on receipt of the written authorization of a school employee:

- (1) deduct from the pay of the employee any dues designated or certified by the appropriate officer of a school employee organization that is an exclusive representative of any employees of the school employer; and
- (2) remit the dues described in subdivision (1) to the school employee organization.

(b) Deductions under this section must be consistent with:

- (1) IC 22-2-6;
- (2) IC 22-2-7; and
- (3) IC 20-28-9-18.

As added by P.L.1-2005, SEC.13.

IC 20-29-6

Chapter 6. Collective Bargaining

IC 20-29-6-1

Duty to bargain collectively and discuss

Sec. 1. School employers and school employees shall:

- (1) have the obligation and the right to bargain collectively the items set forth in section 4 of this chapter;
- (2) have the right and obligation to discuss any item set forth in section 7 of this chapter; and
- (3) enter into a contract embodying any of the matters on which they have bargained collectively.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-2

Contracts

Sec. 2. A contract entered into under this chapter may not include provisions that conflict with:

- (1) any right or benefit established by federal or state law;
- (2) school employee rights set forth in IC 20-29-4-1 and IC 20-29-4-2; or
- (3) school employer rights set forth in IC 20-29-4-3.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-3

Unlawful deficit financing

Sec. 3. (a) It is unlawful for a school employer to enter into any agreement that would place the employer in a position of deficit financing.

(b) A contract that provides for deficit financing is void to that extent, and an individual teacher's contract executed under the contract is void to that extent.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-4

Subjects of bargaining

Sec. 4. A school employer shall bargain collectively with the exclusive representative on the following:

- (1) Salary.
- (2) Wages.
- (3) Hours.
- (4) Salary and wage related fringe benefits, including accident, sickness, health, dental, or other benefits under IC 20-26-5-4 that were subjects of bargaining on July 1, 2001.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-5
Arbitration provisions

Sec. 5. A contract entered into under this chapter may contain a grievance procedure culminating in final and binding arbitration of unresolved grievances. However, the binding arbitration has no power to amend, add to, subtract from, or supplement provisions of the contract.
As added by P.L.1-2005, SEC.13.

IC 20-29-6-6
Limitations on obligation to bargain collectively

Sec. 6. The obligation to bargain collectively does not include the final approval of a contract concerning any items. Agreements reached through collective bargaining are binding as a contract only if ratified by the governing body of the school corporation and the exclusive representative. The obligation to bargain collectively does not require the school employer or the exclusive representative to agree to a proposal of the other or to make a concession to the other.
As added by P.L.1-2005, SEC.13.

IC 20-29-6-7
Subjects of discussion

Sec. 7. (a) A school employer shall discuss with the exclusive representative of certificated employees the items listed in subsection (b).
(b) A school employer may but is not required to bargain collectively, negotiate, or enter into a written contract concerning, be subject to, or enter into impasse procedures on the following matters:
(1) Working conditions, other than those provided in section 4 of this chapter.
(2) Curriculum development and revision.
(3) Textbook selection.
(4) Teaching methods.
(5) Hiring, promotion, demotion, transfer, assignment, and retention of certificated employees, and changes to any of the requirements set forth in IC 20-28-6 through IC 20-28-8.
(6) Student discipline.
(7) Expulsion or supervision of students.
(8) Pupil/teacher ratio.
(9) Class size or budget appropriations.
(c) Items included in the 1972-1973 agreements between an employer school corporation and the school employee organization continue to be bargainable.
As added by P.L.1-2005, SEC.13.

IC 20-29-6-8**Contract, agreement, or concession not required**

Sec. 8. The obligation to discuss does not require either party to enter into a contract, agree to a proposal, or make a concession. A failure to reach an agreement on a matter of discussion does not require the use of any part of the impasse procedure under IC 20-29-8.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-9**Discussions outside obligation to bargain collectively**

Sec. 9. The obligation to bargain collectively or discuss a matter does not prevent:

(1) a school employee from petitioning the school employer, governing body, or superintendent for a redress of the employee's grievances, either individually or through the exclusive representative; or

(2) the school employer or superintendent from conferring with a citizen, taxpayer, student, school employee, or other person considering the operation of the schools and the school corporation.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-10**Recommendations by superintendent**

Sec. 10. Nothing shall prevent a superintendent or the superintendent's designee from making recommendations to the school employer.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-11**Chapter does not limit rights of school employer and exclusive representative**

Sec. 11. This chapter may not be construed to limit the rights of the school employer and the exclusive representative to mutually agree to the matters authorized under IC 20-28-7-13.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-12**Commencement of collective bargaining**

Sec. 12. Collective bargaining between a school corporation and the exclusive representative shall begin not later than one hundred eighty (180) days before the submission date of a budget by a school employer.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-13
Appointment of mediator

Sec. 13. At any time after the one hundred eighty (180) days described in section 12 of this chapter has begun, the board shall appoint a mediator if either party declares an impasse either:

(1) in the scope of the items that are to be bargained collectively; or

(2) on the substance of any item to be bargained collectively.

If after five (5) days the mediator is unsuccessful in finding a solution to the problems or in causing the parties to reach agreement, either party may request the board to initiate factfinding on the items that the parties are obligated to bargain collectively.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-14
Initiation of mediation

Sec. 14. If an agreement has not been reached on the items to be bargained collectively seventy-five (75) days before the submission date of a budget by a school employer, the board shall initiate mediation.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-15
Initiation of factfinding

Sec. 15. If an agreement has not been reached on the items to be bargained collectively forty-five (45) days before the submission date of a budget by a school employer, the board shall initiate factfinding.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-16
Status quo period

Sec. 16. (a) If an agreement has not been reached on the items to be bargained collectively fourteen (14) days before the submission date of a budget by a school employer, the parties shall continue the status quo, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this status quo period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(b) This section may not be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached and a contract entered as called for in this chapter.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-17

Request for mediation or factfinding

Sec. 17. At any time after the one hundred eighty (180) days described in section 12 of this chapter has begun:
(1) either party may request mediation or factfinding on items; or
(2) the parties may act together to request mediation or factfinding on any items;
that must be bargained collectively under section 4 of this chapter.

As added by P.L.1-2005, SEC.13.

IC 20-29-7

Chapter 7. Unfair Practices

IC 20-29-7-1

Unfair practices by school employer

Sec. 1. It is an unfair practice for a school employer to do any of the following:

(1) Interfere with, restrain, or coerce school employees in the exercise of the rights guaranteed in IC 20-29-4.

(2) Dominate, interfere, or assist in the formation or administration of any school employee organization or contribute financial or other support to the organization. Subject to rules adopted by the governing body, a school employer may permit school employees to confer with the school employer or with any school employee organization during working hours without loss of time or pay.

(3) Encourage or discourage membership in any school employee organization through discrimination in regard to:

(A) hiring;

(B) tenure of employment; or

(C) any term or condition of employment.

(4) Discharge or otherwise discriminate against a school employee because the employee has filed a complaint, affidavit, petition, or any information or testimony under this article.

(5) Refuse to:

(A) bargain collectively; or

(B) discuss;

with an exclusive representative as required by this article.

(6) Fail or refuse to comply with any provision of this article.

As added by P.L.1-2005, SEC.13.

IC 20-29-7-2

Unfair practices by school employee organization

Sec. 2. It is an unfair practice for a school employee organization or the organization's agents to do any of the following:

- (1) Interfere with, restrain, or coerce:
 - (A) school employees in the exercise of the rights guaranteed by this article; or
 - (B) a school employer in the selection of its representatives for the purpose of bargaining collectively, discussing, or adjusting grievances.

This subdivision does not impair the right of a school employee organization to adopt its own rules with respect to the acquisition or retention of membership in the school employee organization.

- (2) Cause or attempt to cause a school employer to discriminate against an employee in violation of section 1 of this chapter.

- (3) Refuse to bargain collectively with a school employer if the school employee organization is the exclusive representative.

- (4) Fail or refuse to comply with any provision of this article.

As added by P.L.1-2005, SEC.13.

IC 20-29-7-3

Right of school employer or school employee organization to bring suit

Sec. 3. This chapter does not in any way restrict the right of a:

- (1) school employer; or
 - (2) school employee organization;
- to bring suit for specific performance or breach of performance, or both, of a collective bargaining contract in any court having jurisdiction.

As added by P.L.1-2005, SEC.13.

IC 20-29-7-4

Prevention of unfair practices

Sec. 4. (a) Unfair practices are remediable under this section.

(b) A school employer or a school employee who believes the employer or employee is aggrieved by an unfair practice may file a complaint under oath:

- (1) setting out a summary of the facts involved; and
- (2) specifying the section or sections of this article alleged to have been violated.

(c) The board shall:

- (1) give notice to the person or school employee organization against whom the complaint is directed; and
- (2) determine the matter raised in the complaint.

(d) Appeals may be taken under IC 4-21.5-3.

(e) A hearing examiner or agent of the board, who may be a member of the board, may:

- (1) take testimony; and
- (2) make findings and conclusions.

(f) The board, but not a hearing examiner or agent of the board, may enter the interlocutory orders, after summary hearing, the board considers necessary in carrying out the intent of this chapter.

As added by P.L.1-2005, SEC.13.

IC 20-29-8

Chapter 8. Impasse Procedures

IC 20-29-8-1

Purposes of mediation of disputes

Sec. 1. The purposes of mediation of disputes between school employers and exclusive representatives are the following:

- (1) To delineate the problems involved in bargaining collectively.
- (2) To find solutions that can reasonably be accepted by both parties.
- (3) To determine common grounds, if any.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-2

Mediators

Sec. 2. The board shall establish and hire a:

- (1) permanent staff of mediators; and
- (2) panel of part-time mediators.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-3

Appointment of mediator

Sec. 3. When a mediator is requested or required under IC 20-29-6, the board shall appoint a mediator from the staff or panel established under section 2 of this chapter.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-4

Confidentiality of mediation

Sec. 4. The mediation process is confidential in nature. The mediator is not subject to the subpoena power of courts or other administrative agencies of the state regarding the subjects discussed as a part of the mediation process.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-5
Purpose of factfinding

Sec. 5. The purpose of factfinding is to give a neutral advisory opinion whenever the parties are unable by themselves, or through a mediator, to resolve a dispute.
As added by P.L.1-2005, SEC.13.

IC 20-29-8-6
Factfinders

Sec. 6. (a) The board shall establish and hire a:
(1) permanent staff of factfinders; and
(2) panel of part-time factfinders.
(b) The persons described in subsection (a) may also be mediators.
As added by P.L.1-2005, SEC.13.

IC 20-29-8-7
Appointment of factfinder

Sec. 7. (a) When a factfinder is requested or required under IC 20-29-6, the board shall appoint a factfinder from the staff or panel established under section 6 of this chapter.
(b) The factfinder shall make an investigation and hold hearings as the factfinder considers necessary in connection with a dispute.
(c) The factfinder may restrict the factfinder's findings to those issues that the factfinder determines significant.
(d) The factfinder may use evidence furnished to the factfinder by:
(1) the parties;
(2) the board;
(3) the board's staff; or
(4) any other state agency.
(e) The factfinder shall make a recommendation as to the settlement of the disputes over which the factfinder has jurisdiction.
(f) The factfinder shall:
(1) make the investigation, hearing, and findings as expeditiously as the circumstances permit; and
(2) deliver the findings to the parties and to the board.
(g) The board, after receiving the findings and recommendations, may make additional findings and recommendations to the parties based on information in:
(1) the report; or
(2) the board's own possession.
(h) At any time within five (5) days after the findings and recommendations are delivered to the board, the board may make the findings and recommendations of the factfinder and the board's additional findings and

recommendations, if any, available to the public through news media and other means the board considers effective.

(i) The board shall make the findings and recommendations described in subsection (h) available to the public not later than ten (10) days after the findings and recommendations are delivered to the board.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-8

Factors considered by factfinder

Sec. 8. In conducting hearings and investigations, the factfinder is not bound by IC 4-21.5. The factfinder shall, however, consider the following factors:

(1) Past memoranda of agreements and contracts between the parties.

(2) Comparisons of wages and hours of the employees involved with wages of other employees working for other public agencies and private concerns doing comparable work, giving consideration to factors peculiar to the school corporation.

(3) The public interest.

(4) The financial impact on the school corporation and whether any settlement will cause the school corporation to engage in deficit financing.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-9

Submission of issue to arbitration

Sec. 9. The school employer and the exclusive representative may also at any time submit any issue in dispute to final and binding arbitration to an arbitrator appointed by the board. The award in the arbitration constitutes the final contract between the parties for the issue.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-10

Mediator may not serve as factfinder or arbitrator

Sec. 10. A person who has served as a mediator in a dispute between a school employer and an exclusive representative may not serve as a factfinder or an arbitrator in a dispute arising in the same school corporation within a period of five (5) years except by the mutual consent of the parties.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-11

Other employment of mediators and factfinders

Sec. 11. Mediators and factfinders may not be employed on a full-time or part-time basis by:

- (1) a public school employer that is a school corporation;
or
- (2) an organization of:
 - (A) public employees; or
 - (B) public employers; or
- (3) affiliates of an organization described in subdivision (2)(A) or (2)(B).

As added by P.L.1-2005, SEC.13.

IC 20-29-8-12

Payment of expenses by board

Sec. 12. The board shall pay the following:

- (1) The compensation and expenses of any mediator or factfinder.
- (2) The cost of an arbitrator, which shall be reimbursed equally by the two (2) parties under procedures for collection and payment established by the board.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-13

Findings and recommendations

Sec. 13. (a) The investigation, hearing, and findings of the factfinder must be:

- (1) made as expeditiously as the circumstances allow; and
- (2) delivered to the parties and to the board.

(b) The board, after receiving the findings and recommendations under subsection (a), may make additional findings and recommendations to the parties based upon information in the report or in the board's possession.

(c) The board:

- (1) may, at any time within five (5) days; and
- (2) shall, within ten (10) days;
after receiving the findings and recommendations delivered under subsection (a), make the findings and recommendations of the factfinder and the board's additional findings and recommendations, if any, available to the public through the news media and any other means.

As added by P.L.1-2005, SEC.13.

IC 20-29-8-14

Further mediation and factfinding upon issuance of tentative individual contracts

Sec. 14. If a school employer issues tentative individual contracts, the board shall provide for further mediation and factfinding until an agreement is reached.

As added by P.L.1-2005, SEC.13.

IC 20-29-9

Chapter 9. Strikes

IC 20-29-9-1
Unlawful participation in strike

Sec. 1. It is unlawful for:

- (1) a school employee;
 - (2) a school employee organization; or
 - (3) an affiliate, including state or national affiliates, of a school employee organization;
- to take part in or assist in a strike against a school employer or school corporation.

As added by P.L.1-2005, SEC.13.

IC 20-29-9-2
Actions taken for aiding or abetting in a strike

Sec. 2. A school corporation or school employer may in:

- (1) an action at law;
 - (2) a suit in equity; or
 - (3) another proper proceeding;
- take action against a school employee organization, an affiliate of a school employee organization, or any person aiding or abetting in a strike for redress of the unlawful act.

As added by P.L.1-2005, SEC.13.

IC 20-29-9-3
Loss of dues deduction privilege by exclusive representative for participating in strike

Sec. 3. If an exclusive representative:

- (1) engages in; or
 - (2) aids or abets in;
- a strike, the exclusive representative shall lose the exclusive representative's dues deduction privilege for one (1) year.

As added by P.L.1-2005, SEC.13.

IC 20-29-9-4
Minimum length of school year

Sec. 4. A regulation, rule, or law concerning the minimum length of a school year may not:

- (1) apply; or
 - (2) require makeup days;
- if schools in a school corporation are closed as a result of a school employee strike.

As added by P.L.1-2005, SEC.13.

IC 20-29-9-5
School corporation not required to pay salary for days on strike

Sec. 5. A school corporation shall not pay a school employee for any day when the school employee fails, as a

result of a strike, to report for work as required by the school year calendar.
As added by P.L.1-2005, SEC.13.